

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
LYNN ZELVIN *on behalf of himself and all others* :
similarly situated, :

Plaintiff, :

23 Civ. 9803 (JPC)

-v- :

ORDER

BF MCCABE HOLDINGS, INC., :

Defendant. :

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JOHN P. CRONAN, United States District Judge:

Plaintiff filed the Complaint on November 6, 2023, but the docket reflects that the Complaint was never served on Defendant. Rule 4(m) of the Federal Rules of Civil Procedure requires a defendant to be served with the summons and complaint within 90 days after the complaint is filed. On February 5, 2024, the Court issued an Order directing Plaintiff to show cause regarding his failure to serve and warned Plaintiff that the Court may dismiss this case for failure to prosecute if he fails to abide by this deadline. Dkt. 5. However, the docket reflects no response from Plaintiff. The Court therefore extends *sua sponte* the deadline to file the status letter by February 21, 2024. The Court will dismiss this case for failure to prosecute if Plaintiff once again fails to comply with this deadline. *See LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) (“[I]t is unquestioned that Rule 41(b) also gives the district court authority to dismiss a plaintiff’s case *sua sponte* for failure to prosecute . . .”).

SO ORDERED.

Dated: February 14, 2024
New York, New York



JOHN P. CRONAN
United States District Judge